

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14168 OF 2005

Dated : 6th March, 2006.

Between:

Ch. Vasudeva Rao ... Petitioner

And

1. The State of Andhra Pradesh, rep. by

Addl. Director General of Police, Crime

Investigation Department, Lakdikapul,

Hyderabad and two others. ... Respondents

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ORDER :

This writ petition is filed seeking a Writ of Certiorari to call for the record relating to Cr.No.149 of 1999 on the file of I-Town Police Station, Kadapa and quash the same so far as the petitioner is concerned, being an abuse of process of law, arbitrary and illegal.

The writ petitioner was working as a Senior Accountant in the office of the 3rd respondent – Deputy Director, District Treasury Office, Kadapa. While he was dealing with the duties of forwarding the Military Pension Papers and auditing the accounts of the Auditor General, Hyderabad, a complaint was received that certain forged documents were created for the purpose of withdrawing the pension in a fraudulent manner. On the basis of the said allegations, a complaint was lodged by the 3rd respondent in the I-Town P.S., Kadapa and accordingly Cr.No.149 of 1999 was registered under Sections 420, 468 and 471 of the Indian Penal Code against the persons who claimed pension through the forged documents namely Sri S. Prem Kumar, Sri Sohan Das and Sri Raj Kumar Singh. Subsequently, the matter was transferred to the Inspector of Police, CBCID, Tirupati, Chittoor District for investigation and during the course of the investigation, the writ petitioner was also enquired and the statement of the 3rd respondent, who was the complainant, was recorded on 17-7-2002. The petitioner claims that he is only a forwarding officer and is in no way concerned with the alleged withdrawal of the pension on the forged documents and as a matter of fact in the complaint made by the third respondent, there were no allegations against the involvement of the petitioner. However, the 2nd respondent on 11-9-2002 while reporting to the concerned Magistrate included the name of the petitioner also as an accused in Cr.No.149 of 1999. It appears that the petitioner was granted conditional anticipatory bail on 24-9-2002. That apart, having regard to the nature of the controversy, the Government directed departmental enquiry to be conducted in the entire state of affairs. The Enquiry Officer submitted a report on 22-12-2000 stating that there were certain procedural lapses on the part of the petitioner in forwarding the pension papers for disbursement of the pension and accordingly recommended to the Government for imposition of a minor penalty. In pursuance of the said enquiry report, a show-cause notice was issued to the petitioner on 18-12-2003, to which the

petitioner submitted explanation on 11-1-2004. However, no final orders have yet been passed on the ground that the criminal investigation is still pending.

In this writ petition, the petitioner is questioning the impugned action of the 2nd respondent in proceeding against the petitioner on the basis of the revised First Information Report registered by it and seeks to quash the proceedings in Cr.No.149 of 1999 contending inter alia that the contents of the First Information Report (FIR) do not disclose commission of any offence by him. It is pleaded that the petitioner was neither the sanctioning authority nor the disbursing authority and except the fact he forwarded the pension papers, no other allegation was made against him. Even in the disciplinary proceedings, the only finding was that there were certain procedural lapses on the part of the petitioner. It is also contended that since the complaint was lodged in the year 1999, on the basis of which FIR was registered in the year 1999, the inordinate delay on the part of the 2nd respondent in completing the investigation has resulted in denying the departmental promotion to the petitioner on the ground of pendency of criminal case. The petitioner contends that the impugned action of the respondents is clearly violative of Article 21 of the Constitution of India and therefore on that ground alone the proceedings are liable to be quashed so far as the petitioner is concerned.

In support of his contention, the learned Counsel for the petitioner placed reliance upon a decision of the Supreme Court in *ABDUL REHMAN ANTULAY v. R.S. NAYAK* in which certain guidelines were issued.

However, it is relevant to note that in the said decision the Supreme Court has also observed that the Court has to balance and weigh several relevant factors in determining in each case whether the right to speedy trial has been denied. The Court has also observed that it is neither advisable nor practicable to fix any time-limit for trial of offences.

In the case on hand, admittedly, the petitioner was granted anticipatory bail. The respondents 1 and 2, in their counter-affidavit, explained that the case is under

investigation and some more witnesses have to be examined to collect evidence in view of the memo dated 28-2-2004 issued by the Additional Director General of Police (CID) for adding section of law under Section 13 (1) (c) (d) of the Prevention of Corruption Act, which is under progress. It was further explained that during the course of the investigation, the Additional Director General of Police, Hyderabad addressed a letter to the Government for sanction to prosecute the accused Nos.4 to 10 and the orders were passed by the Government sanctioning the prosecution under Section 197 of the Code of Criminal Procedure. The respondents have also justified their action in including the name of the petitioner on the basis of the information gathered by them during the course of investigation.

Having heard the learned Counsel for both the parties in detail and having regard to the explanation offered by the respondents in their counter-affidavit, I do not find any justifiable reason to quash the criminal proceedings as against the petitioner merely on the ground of the delay in completing the investigation in the absence of any material to show that the delay caused prejudice to the petitioner in any manner. Admittedly, the departmental proceedings are still pending.

In the circumstances, though I am not inclined to issue a Writ of Mandamus as prayed for, I deem it appropriate to dispose of the writ petition with a direction to the respondents to complete the investigation in Cr.No.149 of 1999 as expeditiously as possible and file the appropriate report before the competent Court following due process of law. No costs.

G. ROHINI, J.

Dt. 06-03-2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

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